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7 IN THE UNITED STATES DISTRICT COURT  
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9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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12 In re WELLS FARGO RESIDENTIAL  
13 MORTGAGE LENDING DISCRIMINATION  
14 LITIGATION

M: 08-md-01930 MMC

**ORDER AFFORDING DEFENDANT  
LEAVE TO SUPPLEMENT  
DECLARATION IN SUPPORT OF  
PLAINTIFFS' ADMINISTRATIVE  
MOTIONS FOR SEALING ORDERS**

15 This Document Relates To:

16 ALL ACTIONS.  
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19 Before the Court are the following motions: (1) plaintiffs' "Administrative Motion Re:  
20 Sealing Order," filed October 12, 2010, which motion pertains to the propriety of the filing  
21 under seal of plaintiffs' motion for class certification, the declaration offered in support  
22 thereof, and the entirety of eighteen exhibits attached to the declaration; and (2) plaintiffs'  
23 "Administrative Motion Re: Sealing Order," filed October 29, 2010, which motion pertains to  
24 the propriety of the filing under seal of plaintiffs' joint opposition to defendant Wells Fargo  
25 Bank, N.A.'s ("Wells Fargo") motion for summary judgment, the declaration offered in  
26 support of the joint opposition, and the entirety of the eight exhibits attached thereto. On  
27 October 18, 2010, Wells Fargo filed a declaration supporting, in part, the first of the two  
28 above-referenced administrative motions, and plaintiffs filed a response thereto. Having

1 read and considered the parties' respective filings,<sup>1</sup> the Court rules as follows.

2 To the extent Wells Fargo seeks an order sealing the entirety of nine deposition  
 3 transcripts, Wells Fargo has failed to show it is entitled to such relief. The Court has  
 4 previously denied Wells Fargo's request to file under seal an entire document where Wells  
 5 Fargo contended that only a portion of the document consisted of sealable matter. (See  
 6 Order, filed September 30, 2010, 5:5-15.) Such order appears to have had no effect on  
 7 Wells Fargo, because Wells Fargo, once again, seeks such relief. In this instance, Wells  
 8 Fargo asserts that over two thousand pages of deposition testimony should be kept from  
 9 the public for the reason that some portions of those transcripts are properly filed under  
 10 seal. Wells Fargo has failed to identify any specific page on which such testimony was  
 11 given, and the Court declines to conduct a review of over two thousand pages to attempt to  
 12 locate the testimony to which Wells Fargo may be referring. Rather than deny the request,  
 13 however, the Court will exercise its discretion to afford Wells Fargo leave to supplement its  
 14 showing to identify the specific pages and line numbers in the transcripts in which the  
 15 deponent gave testimony that, in Wells Fargo's view, discloses material "privileged or  
 16 protectable as a trade secret or otherwise entitled to protection under the law." See Civil  
 17 L.R. 79-5(a).

18 To the extent Wells Fargo seeks an order sealing the entirety of an exhibit it has  
 19 identified as "Wells Fargo Fair and Responsible Lending Compliance Sub-Program" (see  
 20 Thomas Decl., filed October 18, 2010, 5:1-2), Wells Fargo has failed to show it is entitled to  
 21 such relief. Although Wells Fargo asserts, without explanation, that said document  
 22 "contains privileged information" (see id. 5:3-4), Wells Fargo has not identified the specific  
 23 privilege on which it relies and, more importantly, has not identified the portion of said  
 24 document that contains, in Wells Fargo's view, privileged matter. The Court declines to  
 25 review the entirety of the document to determine whether some portion may be privileged,

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 27       <sup>1</sup>Although Wells Fargo did not file a response to the second of the two above-  
           referenced administrative motions, the Court considers Well Fargo's response to the first  
           motion to be its response to the second motion, in that Wells Fargo's response to the first  
           motion addresses each exhibit that is the subject of the second motion.

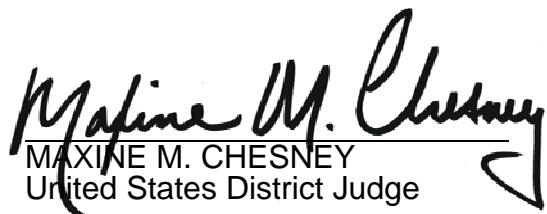
1 particularly where the nature of the privilege is not identified. Again, however, the Court will  
2 exercise its discretion to afford Wells Fargo leave to supplement its showing, in this  
3 instance, to identify the nature of the privilege(s) and to identify the particular portion(s) of  
4 the document that it believes are privileged.

5 To the extent Wells Fargo seeks an order sealing the entirety of documents it has  
6 identified as "Wells Fargo Broker Origination Agreement" and "Wells Fargo Law  
7 Department – Overview of Fair Lending Broker Price Monitoring for WFHM" (see id. 3:23,  
8 4:24-25), Wells Fargo has failed to show it is entitled to such relief. Wells Fargo's  
9 conclusory references to the first of those documents as being "unique to Wells Fargo" and  
10 the second as a document "contain[ing] information that is not public knowledge" are  
11 insufficient to warrant sealing of the entirety of the document or any portion thereof. (See  
12 id. 3:25-26, 4: 27-28.) Again, the Court will exercise its discretion to afford Wells Fargo  
13 leave to supplement its showing, in this instance, to set forth why the document is or  
14 contains material that is "privileged or protectable as a trade secret or otherwise entitled to  
15 protection under the law," see Civil L.R. 79-5(a), and to indicate the portion(s) of said  
16 documents that are sealable.

17 Accordingly, the ruling on plaintiffs' administrative motion is hereby DEFERRED, and  
18 Wells Fargo is afforded leave to file, no later than November 29, 2010, a supplement to its  
19 declaration to address the matters set forth above.<sup>2</sup>

20 **IT IS SO ORDERED.**

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22 Dated: November 19, 2010  
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MAXINE M. CHESNEY  
United States District Judge

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27 <sup>2</sup>To the extent Wells Fargo seeks an order sealing a document it has identified as  
28 "Wells Fargo Retail Pricing Policy" (see id. 3:27), the Court finds it has sufficient information  
to make a determination, and, accordingly, Wells Fargo need not supplement its showing  
as to said document.